

EXHIBIT A

AFFIDAVIT

I, John L. Scarbrough, being duly sworn, deposes and states as follows:

1. I am currently assigned as Contract Senior Forfeiture Investigator (SFI) with the Detroit Division of the Federal Bureau of Investigation. Prior to accepting my contract position, I was a Special Agent of the Federal Bureau of Investigation or law enforcement officer of the United States within the meaning of Section 2510 (7) of Title 18, United States Code, for twenty two years, conducting a wide variety of investigations of crimes against the United States.

2. As part of my current duties, I conduct financial investigations as it relates to individuals, organizations, and businesses that have violated federal laws, including but not limited to the tracing of assets and proceeds of their illegal activity, as well as the laundering of their proceeds in violation Title 18 Sections 1956 and 1957.

3. Based on my training, experience, and participation in financial investigations, I am aware that proceeds of criminal activity are often spent, hidden, or otherwise dissipated in such a way that they cannot be recovered and forfeited upon conviction of a defendant.

4. The facts and information set forth in this Affidavit are known to me through my direct participation in the financial investigation of defendant Bobby Ferguson (Ferguson) in this criminal case, my review of documents and records

related to the investigation and prosecution, and/or from information obtained from law enforcement officials.

5. This Affidavit is made in support of an Application to Enter Second Amendment to Amended Preliminary Order of Forfeiture to Forfeit Substitute Property of Defendant Bobby Ferguson, specifically a Harley Davidson Motorcycle, VIN: 1HD1FRW161Y654039, titled to Bobby W. Ferguson (Harley Davidson). As of July 18, 2019, the Harley Davidson had an appraised value of \$3,730.

6. The Court entered an Amended Preliminary Order of Forfeiture on October 21, 2013, which included, among other things, the forfeiture of specific assets pursuant to 18 U.S.C. § 1963(a)(1)-(3), 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), finding that a substantial nexus existed between Ferguson's criminal violations and the specific assets, and a money judgment in the amount of \$6,284,000 on Count One (18 U.S.C. § 1962(d) - RICO conspiracy). (ECF No. 490). The majority of the money judgment (over five million dollars) remains outstanding.

7. Evidence at the trial in this case demonstrated that Ferguson shared a significant amount of proceeds obtained as a result of the RICO Conspiracy (Count One) with co-defendant Kwame Kilpatrick, and Kilpatrick spent large sums on lavish vacations, expensive clothing, parties, and summer camps for his children,

among other things. Therefore, due to the acts of Ferguson, proceeds obtained as a result of the RICO conspiracy that are subject to forfeiture are no longer available.

8. I have exercised, and other government agents have exercised, due diligence searching for proceeds of Ferguson's offenses including, but not limited to, engaging in the following:

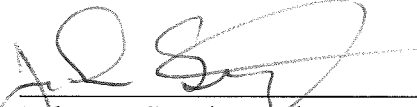
- a. Reviewing financial records received from numerous financial institutions;
- b. Searching real property databases;
- c. Searching databases for vehicles and other property owned by Ferguson; and
- d. Searching the Department of Licensing and Regulatory Affairs website.

Despite a diligent search, with the exception of the property previously forfeited in the Amended Preliminary Order of Forfeiture (ECF No. 490), the government has not located other assets owned by Ferguson constituting proceeds obtained as a result of a crime for which Ferguson was convicted in this criminal case.


9. The government's investigation regarding the Harley Davidson revealed that some of the funds used to obtain and maintain the Harley Davidson are traceable to accounts into which Ferguson commingled tainted and untainted funds. Given Ferguson's use of commingled funds to purchase the Harley Davidson, the government is unable to establish that the Harley Davidson

constitutes property subject to direct forfeiture as 100% “proceeds” of an offense for which Ferguson was convicted.

10. In sum, the full amount of the proceeds obtained by Ferguson as a result of his violation of Count One have not been, and cannot be, located due to the actions of Ferguson. Therefore, the government must rely on the substitute assets provision of 18 U.S.C. § 1963(m) to forfeit the Harley Davidson.


John L. Scarbrough

The foregoing instrument was subscribed to and sworn before me, Jyen-ai Jones, by John L. Scarbrough, on August 22, 2019.


Jyen-ai Jones, Notary Public
State of Michigan — County of Macomb
My commission expires: 09/27/2025
Acting in the County of Wayne

